

REMARKS

Applicant has reviewed and considered the Office Action mailed on June 27, 2003, and the references cited therewith.

Claims 1, 6 and 15 are amended. Claims 27 and 28 are added. Claims 1-28 are now pending in this application.

Information Disclosure Statement

Applicant submitted an Information Disclosure Statement and a 1449 Form on April 8, 2003. Applicant respectfully requests that initialed copies of the 1449 Forms be returned to Applicants' Representatives to indicate that the cited references have been considered by the Examiner.

§102 Rejection of the Claims

Claims 1, 2, 4, 5-10, 12, 14-19, 21, and 23-26 were rejected under 35 USC § 102(b) as being anticipated by Papuchon (U.S. Patent No. 4,035,058). This rejection is respectfully traversed. The independent claims have been amended, and are now believed allowable over Papuchon.

Papuchon does not show the waveguides having corresponding ends on the same sides of the substrate. In fact, Papuchon specifically teaches away from such a structure at Col. 2, starting at line 12: "The guides 1 and 2 are mutually parallel over a length L referred to as the coupling length, the guide 2 **diverging from the guide 1 in a substantially normal direction**, at either end of the coupling length L;" emphasis added, and further at Col. 2, starting at line 51: "...it is thus possible to define a length L, known as the coupling length, in respect of which the whole of the energy supply to the first guide, 1, is transferred to the second, 2, and is maintained there **if the two guides separate** after the distance L in the manner shown in FIG. 1." Emphasis added. As seen in FIG. 1, the two guides appear to continue separating in a perpendicular manner, making it impossible for them to have ends that share common sides of the substrate. It does not appear desirable to do so according to the teaching of Papuchon.

With respect to claims 5, 14 and 23, the Examiner indicates that the method of forming the device is not germane to the issue of patentability of the device itself, and that the limitation

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has not been given any patentable weight. This indication is respectfully traversed. A claim setting forth further structure or method elements may not simply be ignored. At a minimum, these claims are product by process claims, and their recitations may not be ignored. MPEP 2173.05(p) indicates that "A product-by-process claim, which is a product claim that defines the claimed product in terms of the process by which it is made, is proper." Reconsideration and allowance of these claims is respectfully requested, as no reference has been asserted to teach or suggest waveguides being formed by a proton exchange process as claimed.

§103 Rejection of the Claims

Claims 3, 11, 13, 20, and 22 were rejected under 35 USC § 103(a) as being unpatentable over Papuchon. These claims all depend from an independent claim that is now believed allowable. Reconsideration and allowance is respectfully requested.

New claims 27 and 28 were added. New claim 27 recites that the ends of the waveguides are on common edges of the substrate. Claim 28 is similar to claim 1, and incorporates that the waveguides formed by a proton exchange process. Both claims are believed to distinguish the reference for reasons similar to those set forth above.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (612) 373-6972 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743

Respectfully submitted,

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By their Representatives,

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Date September 29, 2003 By R. L. Lacy
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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 29 day of September, 2003.

Gina M. Uphus
Name

Gina Uphus
Signature

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